Daily Report

Supplement

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on CPSU Legalit

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Central Eurasia
SUPPLEMENT
Constitutional Court on CPSU Legality

FBIS-SOV-92-133-S *10 July 1992*

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Trial Previewed

Court Issues Statement on CPSU Case

PM0607103992 Moscow IZVESTIYA in Russian 26 Jun 92 Morning Edition p 8

[Unnamed ITAR-TASS correspondent report: "Statement by Constitutional Court Press Service in Response to CPSU Central Committee Members Appeal"]

[Text] Moscow, 25 Jun—The Russian Federation Constitutional Court Press Service has issued a statement in response to the appeal by participants in the conference of CPSU Central Committee members which took place 13 June. This appeal and a number of pieces in the press, the statement says, testify that the CPSU Central Committee members are not sufficiently clear about the forthcoming Constitutional Court session on 7 July.

In connection with the fact that the legality of the Constitutional Court's combining of two petitions—on checking the constitutionality of the Russian president's decrees of 23 August and 6 November 1991, and on checking the constitutionality of the activities of the CPSU and the RSFSR Communist Party—into a single judicial proceeding is being questioned, the press service explained: "The law on the Russian Federation Constitutional Court gives the right to combine one, two, or more petitions into a single judicial proceeding. As far as the reasons for combining them are concerned, the reasons for this decision were explained in detail at the session 26 May. The court proceeded not from the whim of some politician, but from the essence of the subject under examination: Both the president's decrees and the two petitions relate to some extent to the question of the constitutionality of the party itself."

"The tense expectations of some kind of political trial within the walls of the Constitutional Court or of a criminal investigation are groundless," the Constitutional Court Press Service states. The Constitutional Court decides on whether or not specific normative acts or social associations are constitutional, but does not pronounce a verdict on a criminal case—this is the prerogative of the ordinary courts of justice. Taking into consideration the forthcoming Constitutional Court session's enormous social significance and the extreme complexity of the subject under examination, the Constitutional Court Press Service once again draws the attention of participants in the case to the inadmissibility of any pressure on the court and asks the sides' representatives to refrain from premature political assessments of a decision which the Constitutional Court has not yet adopted.

In order to create the requisite conditions for preparations by the participants in the case for the hearings, premises in the court have been earmarked for the sides, along with the necessary technical personnel, office equipment, and communications.

Former CPSU Officials Hold News Conference

LD0207192792 Moscow Russian Television Network in Russian 1600 GMT 2 Jul 92

[Report by correspondent Martynov; from the "Vesti" newscast]

[Text] A news conference was held by Ivashko, former deputy general secretary of the CPSU Central Committee, and Kuptsov, former first secretary of the Central Committee of the Russian Communist Party, in Moscow today. The participants of the conference insisted that the president's decrees on the party were unconstitutional and promised trouble should the decision of the Constitutional Court be an unfavorable one for the party. The Constitutional Court resumes its sessions on 7 July. They also expressed certitude that they would win the case. Kuptsov noted that given the absence of the USSR, the restoration of the CPSU is an utopia. However, the Russian Communist Party has a great future.

'Secret Files' Submitted to Court

LD0307120492 Moscow ITAR-TASS in English 1034 GMT 3 Jul 92

[By ITAR-TASS correspondents Lyudmila Yermakova and Aleksandr Krasulin]

[Text] Moscow July 3 TASS—Secret files were submitted to the Contitutional Court by representatives of the Russian president to prove the legality of presidential decrees banning the Soviet Communist Party and its Russian branch. "We have thoroughly studied a heap of documents and submitted to the Constitutional Court 36 volumes from the "special file", as well as other materials which we are going to use", Sergey Shakhray, one of the representatives, said at a press conference on Friday [3 July].

The defence in court will be based on two main theses. The first one is that "the CPSU was not a political party either de facto or de juro. We had a state called the CPSU", Shakhray said. The second one is to prove that the decision on the fate of the party was in competence of the president.

Shakhray explained that two state mechanisms existed in Russia at the time—the popularly elected president and parliament and the CPSU apparatus which had no support among the people. The president had to preserve the main constitutional principle—that of the power of people, he added.

None of the bodies of power has protested this decision in the past year, according to Shakhray, who added that "the parliament would not miss a possibility of reminding the president that he had interfered into the legislative authority".

The protest was voiced by 37 deputies representing the interests of the former CPSU who try to take advantage

of the current political situation and "revitalise not the party itself, but the situation in which similar organisations may come to office", Shakhray explained.

The CPSU cannot be regarded a political party as it was a mechanism of power dominating the law, i.e. a state structure. That is why claims that the rights of a public organisation were violated are groundless, lawyer Mikhail Fedotov added.

And as the CPSU was a state structure, its property belongs to the state and there should be no complaints about nationalisation as the latter envisages confiscation of private property, he said, adding this will be proved in court.

The presidential representatives noted they are not going to ban the communist ideas, but to "neutralise an unconstitutional structure".

News Conference Held on CPSU Investigation

LD0307195692 Moscow Mayak Radio Network in Russian 1220 GMT 3 Jul 92

[Text] You know, once again the abbreviation CPSU is cropping up more and more frequently in our newspapers just as it used to until recently. On 7 July, the Constitutional Court will continue looking into the activities of this organization and today a news conference was held which set forth the positions of the president's representatives at the forthcoming sitting of the court. Aleksandr Ruvinskiy is with me in the studio. Over to him.

[Ruvinskiy] I will be talking about that news conference but I would like to recall that there was another news conference yesterday at which representatives of the former leaders of the CPSU set forth their positions.

Today's news conference was held by Sergey Shakhray, Gennadiy Burbulis, and others. Shakhray said that a great deal of material has already been handed over to the court, including 36 volumes from what was called the USSR president's special file, and a great deal of other material and the defense of the president's decisions banning the CPSU will be based on two theories. First, that neither de facto nor de jure was the CPSU a party or public organization. It was purely a structure of the state, something of which we have a great deal of evidence. This was presented at the news conference and I think it will undoubtedly be presented at the sitting of the Court.

[Reporter] There's no need to look very far for it.

[Ruvinskiy] The second question: Did the president have the right to decide on the fate of the CPSU? He did have the right to make such a decision about a structure of the state since he was obliged to guarantee the main principle of the Constitution, that of people's power, whereas essentially the party was omnipotent in the state. In this connection, a short statement was made by their lawyer, the well-known Andrey Makarov.

[Begin Makarov recording] Verifying the constitutionality of the activities of the organization calling itself the CPSU has to be done today in accordance with a constitution that was developed, endorsed, and given legal shape by the CPSU, via representative bodies that were entirely subordinate to the CPSU. It would seem to be the CPSU's constitution and yet not even this constitution could cover all the activities of the organization calling itself the CPSU. Having written the constitution, the CPSU still failed to act within its framework and it is no accident that for so many years the basic law of the country were the rules of the CPSU while the supreme legislative, executive, and judicial body was the Politburo. [end recording]

[Ruvinskiy] The journalists who took part in the news conference showed considerable interest in the fate of Gorbachev and whether he might be brought to account. In this connection, Gennadiy Burbulis said that Gorbachev allegedly made various statements to the effect that he had discredited himself to such an extent that no one else's efforts were needed. However, since the questions were repeated he did add:

[Begin Burbulis recording] We would like to find a precise and subtle combination: to preserve and guarantee civil peace in Russia and, at the same time, to provide a legal appraisal of our entire history. [end recording]

[Ruvinskiy] And one more detail. Many people are now interested in what money the CPSU will use to defend itself. All its accounts have been sequestrated and eliminated and the state is allocating special funds from the budget to enable the Communist Party to defend itself at the Constitutional Court.

Shakhray Gives Statement on Legal Aspects

LD0307181792 Moscow Mayak Radio Network in Russian 0700 GMT 3 Jul 92

[Statement by Sergey Shakhray, deputy premier and presidential legal advisor, at a news conference in Moscow on 3 July—recorded]

[Text] The organization that called itself the CSPU was neither a de facto nor a de jure party. According to every canon of the Marxist-Leninist theory of the state and the law, you and I had a state that called itself the CPSU. There was a particular group of persons who dealt with government and had a monopoly of the state: the one and a half million in the party nomenklatura, the several million civil servants and, finally, the special coercion apparatus. The KGB, as you know, was the armed detachment of this organization that called itself the CPSU, and it was even used for the physical destruction of dissidents, rather than as stipulated by the organization's own rules.

Essentially, we had a regime in which the basic law of the state and society were the rules of the CPSU and the supreme legislative, executive, and judicial body, all at

the same time, was the Politburo. We will demonstrate this to the court on the basis of documents. The system will be laid out in detail: who adopted laws, who made decisions that were the prerogative of the supreme bodies of state power, who administered the law in our country. From the legal point of view, neither the statutory documents, the program and rules of the organization, nor the procedure for its registration corresponded to legislation in force in the Russian Federation and could not therefore have lawful consequences and legalize the organization.

Who was responsible for making decisions on the fate of this organization? We will demonstrate that from the moment a Russian parliament and a Russian president were elected, two state mechanisms existed in the Russian Federation: one, the parliament and president who had been legally elected by the people, and two, the CPSU, which had no backing from the will of the people. The president of the Russian Federation was obliged to ensure that the principle of people's power, the main constitutional principle in any state, actually functioned. The only source of authority is the people, and only bodies and officials elected by the people may govern the state. The so-called left over principle [ostatochnyy printsip] of determining what the executive should actually do exists in our constitutional system. Anything that is not within the competence of the Congress or the Supreme Soviet is left to executive authorities. Look at the Constitution of the Russian Federation or the Constitution of the USSR. It is sufficient after this to analyze the powers of the Supreme Soviet and Russia's Congress of People's Deputies to be persuaded that they have no competence to decide issues of the fate of any state structures whatsoever.

As for the judiciary, the theory is widespread that only the courts can make decisions like that made by the president of Russia. However, first, since it is not a party but a state organization, a state mechanism, the legislation on parties does not apply and second, until 18 December 1991, there were administrative rather than legislative procedures for banning the activities of public associations that operated in the Russian Federation and these were used to transfer their property to that of the state. Even if we were to allow that for a certain time the organization was a party, even under those circumstances there was no legal procedure that applied to such organizations. Almost a year has past since August 1991, and neither the Russian Supreme Soviet nor its Supreme Court have stated anywhere that the president has violated their authority. And you, better than anyone, know that the Russian parliament does not miss an opportunity of reminding the president that he has interfered with the legislature's prerogatives.

Burbulis Gives News Conference on Legal Action

OW0307143992 Moscow INTERFAX in English 1325 GMT 3 Jul 92

[Transmitted via KYODO]

[Text] If the Constitutional Court approves the President's ban on the Communist Party, it will clear the way to normal statehood in the Russian Federation - the President's State Secretary Gennadiy Burbulis said at today's press-conference held in Moscow in anticipation of the Constitutional Court proceedings on compatibility of presidential decrees banning the Communist Party with the Constitution and also on such compatibility of the Party's activities. G. Burbulis expressed confidence that the President's attorneys will produce sufficient arguments for the Court to rule in a way that would encourage continued reforms by Boris Yeltsin's team and consolidate the democratic forces.

In reply to a question by IF [INTERFAX] correspondent the State Secretary explained that it had nothing to do with banning any ideology or outlook, but with a legal assessment of a "structure" which ruled the country over 70 years.

Burbulis also announced that at the request by the chairman of the Constitutional Court the President has ordered the Ministry of Finance to cover the court expenses of the plaintiffs who question compatibility of his decrees with the Constitution. A necessary sum will be advanced for the purpose.

Further on Remarks

LD0307110192 Moscow ITAR-TASS in English 0855 GMT 3 Jul 92

[By ITAR-TASS correspondent Lyudmila Yermakova and Aleksandr Krasulin]

[Text] Moscow July 3 TASS—Russian State Secretary Gennadiy Burbulis is sure the Constitutional Court will adopt an "objective decision which will allow to continue reforms with the president of Russia and will promote consolidation of all democratic, constructive and civil forces".

"The Constitutional Court is a guarantor of reforms", Burbulis said on Friday [3 July] at a press conference devoted to the oncoming session of the Constitutional Court which is to discuss the legality of presidential decrees banning the Soviet Communist Party and its Russian branch.

The court's meeting will show to Russians and the whole world that "we have a strict legal instrument in the hands of professionals capable of objectively solving a difficult legal task", he added.

Burbulis played down fears that a Communist-Fascist threat is reappearing in the country. There are no grounds for concern over "the consolidation of revenge-seeking forces, their grouping and regrouping while the bodies of state power in Russia are to a certain extent weak", he said. The concern is exaggerated, "I am sure the democratic forces headed by the president have a considerable potential which has not been yet untapped

to the full. The oncoming trial can be viewed as a confirmation to the potential and its prospects", he said.

Rumyantsev Defends Yeltsin Stance on CPSU Ban

LD0607213192 Moscow ITAR-TASS in English 2109 GMT 6 Jul 92

[Text] Moscow July 7 TASS—A senior Russian parliamentary official on Monday [6 July] defended Russian President Boris Yeltsin's decrees banning the Soviet Communist Party.

The president of Russia did not violate the principle of separation of power and did not usurp judiciary powers, Oleg Rumyantsev, secretary of the Constitutional Commission, said in a statement, issued one day before a session of the Constitutional Court expected to review the legality of Yeltsin's decrees.

"None of the three disputed decrees raises the question about recognizing the legality of the unconstitutionality of these (Communist Party) organizations," Rumyantsev said.

"We want this issue resolved in court and seek a confirmation of the content of the presidential decrees, which are of a primarily executive character," he said.

Rumyantsev rejected statements by Communists that the Russian law on the Constitutional Court does not give it the right to decide whether the Communist Party is constitutional.

Amendments made by the Sixth Congress of People's Deputies enable the Constitutional Court to consider such things, he said.

"We dispute the constitutionality of an organization, which called itself the CPSU and which had an outward appearance of a political party, but which in its nature was not a public association, part of a civil society," he said.

"The unconstitutionality of the CPSU is in the incompatibility of the party's nature with the Constitution, rather than of just its acts and actions," he said.

Yeltsin Authorizes Funds for Court Hearing

OW0607212292 Moscow INTERFAX in English 1833 GMT 6 Jul 92

[Transmitted via KYODO]

[Text] The Russian President Boris Yeltsin has signed an instruction to give the Constitutional Court of Russia 965 thousand rubles in the third quarter of the year to fund the costs resulting from the participation of representatives from the CPSU and the Communist Party of the Russian Federation in hearings probing into the constitutionality of the CPSU and the Russian Communist Party. The resolution says that it is a response to a request from the Chairman of the Constitutional Court of the Russian Federation.

7 July

Constitutional Court CPSU Hearings Begin

LD0707062992

[Editorial Report] Moscow Russian Television Network in Russian at 0555 GMT on 7 July begins to carry a live broadcast of the opening of the Constitutional Court hearing in Moscow. Reception is good.

Commentator Georgiy Dolgov introduces the broadcast as the video shows the courtroom where the hearing is not yet in progress. Participants can be seen assembling for the session and taking their seats at as Dolgov explains that the Constitutional Court is tasked with issuing a legal ruling on the Russian presidential decree banning the CPSU. He notes that this is not a criminal court and that the court cannot issue sentences as punishment. He also states that this is not a trial just for show.

At 0558 GMT the counsel for the state arrives, among whom is Gennadiy Burbulis. After taking their seats, the participants all rise at 0601 GMT. The video pans the participants as the hearing begins at 0602 GMT.

Zorkin, who is chairing the hearing, opens the hearing on the August decree banning the CPSU and impounding its assets. He notes that a quorum is present. Then the secretary to the court lists those present, including the Russian general procurator and the Russian justice minister. Yegor Ligachev is among those present and identified. The secretary lists the counsel for both sides. Among those on the CPSU side is former CPSU Deputy General Secretary Ivashko. Among those on the side of the Russian Government are Gennadiy Burbulis and Sergey Shakhray. Identified later among those present is Starovoytova. The secretary also notes who is absent from the hearing, adding that the court was notified about Mikhail Gorbachev's absence. Zorkin says the court must decide whether Gorbachev's absence will hinder the hearing. He asks members of the bench for comments. The decision is that the hearing will proceed.

At 0611 GMT Zorkin recites the procedural rules for the presentation of the case of each side, the calling of witnesses, expert testimony, and how to address each other and the members of the bench.

On the side of the CPSU, at 0614 GMT Kuptsov requests clarification of his side's status and expresses uncertainty over a procedural point.

The CPSU team's procedural inquiry clarified. A lawyer for the CPSU then requests further clarification of the status and rights of both sides. Zorkin refers all those present to the Law on the Constitutional Court. A lawyer

for the CPSU then complains that the sides were not consulted by the bench regarding proceeding in Gorbachev's absence. Zorkin replies that both sides knew that Gorbachev would not show up.

A representative of the Russian Government then voices uncertainty over the rights and status of both sides. It is noted that Ostankino director Oleg Poptsov is present.

The Russian Government side objects to an inclusion in the CPSU team of former members of the Russian Communist Party, about which it had no prior knowledge. The objection is overruled.

The Russian Government asks about the status of CPSU representatives since the party is banned by presidential decree, yet these people are described by their counsel as though they are still party secretaries. He says it is preferable to give them their professional or academic ranks. The sides continue back and forth discussion over who is present on each side and in what capacity.

At 0632 GMT P.D. Slobodkin, representing the CPSU, requests that the court call Russian President Boris Yeltsin to testify as a witness and to defend the legality of his decrees. Zorkin replies that the list of those attending and to be called has already been decided.

Three minutes later a member of the bench speaks on the preparatory work undertaken for the hearing and the background to the case.

At 0637 some more participants in the hearing are identified, including Oleg Rumyantsev, chairman of the Supreme Soviet Constitutional Commission. Viktor Osipovich Luchin, a member of bench, continues with the history and background of the case and sets out in detail the legal issues at stake. He enumerates the documentation which has been made available to both sides.

At 0710 (?Konov), another member of the bench, continues to list the documentation in the possession of both sides, including paperwork from the State Committee for the State of Emergency; the Defense, Security, and Interior Ministries; parliamentary hearings; and various party and other archives. It totals several thousand pages. For the most part it consists of Communist Party documents detailing internal procedures, rules, standing orders, and internal correspondence covering various historical periods from the Red Terror onward. Included in the documentation is an historical account on the formation of the one-party state by Professor Richard Pipes of Harvard University.

At 0720 members of the bench seek clarifications to Luchin's report, and Zorkin then rules that the CPSU side will present its case first on the matters to be investigated.

At 0724 Zorkin rebukes the CPSU counsel over a procedural point concerning expert examination and assessment of the documentation and its lack of politeness in addressing the bench. Comments on the order of submitting cases are then heard and procedural points are discussed.

At 0743 Chairman Zorkin rebukes an unidentified person for speaking out of turn. He informs both sides that they may entrust their case to one main speaker or spread the speaking workload among themselves, as they wish.

At 0745 Zorkin proposes an adjournment until 0830, and the live broadcast ends at 0746 GMT. The station commentator announces that a full account of the proceedings will be broadcast at 1955 GMT on 7 July.

Two Petitions Read at Opening of Proceedings

LD0707135892 Moscow ITAR-TASS in English 1253 GMT 7 Jul 92

[Text] Moscow July 7 TASS—A statement by reporteur Judge Viktor Luchin was the main procedural item at the proceedings of the Russian Constitutional Court on Tuesday [7 July]. He noted that the court received two petitions.

One of them challenged the constitutional nature of the President Boris Yeltsin's decrees "suspension of the activities of the Russian Federation's Communist Party" of August 23, 1991, "the property of the Communist Party of the Soviet Union (CPSU) and the Russian Federation's Communist Party" of August 25, 1991 and "the activities of the CPSU and the Russian Federation's Communist Party".

The petition was signed by a group of Russian legislators. They claimed in the petition that "the content of the president's decrees runs counter to the division of powers established in the Russian Federation and the division of prerogatives (recorded in the Russian Federation's Constitution) between the supreme bodies of state authority and administration of the Russian Federation".

They also stressed that "the content of the president's decrees intervenes in the sphere of both legislative and judicial powers".

The second petition filed by Russian Legislator Oleg Rumyantsev, executive secretary of the Russian parliament constitutional committee, who was joined by a group of parliamentarians, claims that the CPSU should be recognised as unconstitutional in compliance with Article 165-1 and Part 2 of Article 7 of the Russian Constitution, since "its activities were aimed at fanning up ethnic and religious strife during its existence, which is corroborated by the deportation of entire nations in the past".

The second petition notes that the CPSU, a voluntary social and political organisation according to its rules, usurped and exercised for a long time functions of state coercion through its executive bodies at all levels.

Luchin noted that the first petition was recognised to be the main. The second is concomitant. He also said that scholars from various Russian cities were invited to study materials as experts.

The judges studied a lot of documents subpoenaed from the Justice, Defence, Interior and Security Ministries, the Russian parliament as well as citizens' letters. They examined in detail the materials issued the CPSU and the Russian Communist Party as well as ex-President Gorbachev's archives.

The key organisational issues were settled by the first interval in the work of the Constitutional Court. After an exchange of opinions, court members and representatives of the sides decided that legislators who challenged the president's decrees would be the first to speak. They will be followed by the president's representatives.

Stepanov Draws Warning From Court's Zorkin

LD0707161892 Moscow Radio Rossii Network in Russian 1400 GMT 7 Jul 92

[Text] The Russian Constitutional Court session is continuing. It is examining the question of the constitutionality of President Yeltsin's decrees banning the activities of the CPSU, and also the question of the constitutionality of the activities of the CPSU itself. Our special correspondent Andrey Krasnov is on the line.

[Krasnov] The first day of the hearing on the legality of Boris Yeltsin's decrees banning the CPSU and the RCP [Russian Communist Party] is just coming to an end at the Constitutional Court building at 24 Ilyinka. This morning it emerged that former CPSU General Secretary Mikhail Gorbachev would not take part in the sessions. He informed court chairman Valeriy Zorkin of this verbally. True, the CPSU representatives did make a weak attempt to demand Gorbachev's presence, but this was rejected by a majority of the judges. So, the CPSU was represented by Vladimir Ivashko, the General Secretary's first deputy, and the RCP by former Central Committee First Secretary Valentin Kuptsov.

The party old guard were also present in court: Yegor Ligachev, for example, was only too pleased to give an interview to journalists. He spoke confidently about the bright future of the communist idea.

After a short discussion of procedural matters, the debate between the sides began. The CPSU representatives went first in their final and decisive battle. They did not hold back, you might say, accusing Boris Yeltsin of every possible mortal sin. Russian People's Deputy Dmitriy Stepanov is speaking here: [Begin recording] [Stepanov] Furthermore, a state of emergency was created in Moscow and Leningrad by the RSFSR President and his supporters in the Army, the Ministry of Internal Affairs, and the Supreme Soviet between 19 and 22 August. By 23 August, however, the situation everywhere had become calm. The destabilization of the situation in these cities brought about by the supporters of the RSFSR president is akin to the notorious provocation of setting fire to the Reichstag, with the same purpose. As soon as they had achieved their aim, they stopped whipping up hysteria and the situation in the country instantly became stable.

Therefore, until it is established by the appropriate Supreme Court decision that the members of the State Committee for the State of Emergency [SCSE] have declared the introduction of a state of emergency and the temporary indisposition of the USSR president on their own initiative and not by a previous agreement with the USSR president, until then, no one—including the president of Russia—has the right to assert this or to impose any sanctions whatsoever on these grounds.

The declaration of a state of emergency in the USSR on 18 August 1991 and the establishment of the SCSE was done to solve the country's urgent problems of increasing power supplies, bringing in the harvest, and stabilizing the economy. It was supposed to introduce order and discipline into all areas of the national economy and to prevent the country from falling apart into the hands of separatists among the leaders of the Union republics and public movements, such as Democratic Russia, Sajudis, Rukh and others. The members of the SCSE planned no changes in the composition of the bodies of state power and administration, in the political or economic structure of the country, and they did not undertake any.

The violations thereby committed by the USSR vice president and the Union government are therefore....

[Zorkin, interrupting] People's Deputy!

[Stepanov] I am sticking to the point.

[Zorkin] Deputy Stepanov, I must remind you once again, the judges are simply compelling me, I shall no longer be able to work as the chairman, I remind you once again: please, return to the essence of your petition. [end recording]

[Krasnov] Valeriy Zorkin warned deputy Dmitriy Stepanov three times, but the latter had apparently gotten himself worked up. For 50 minutes he passionately denounced the Russian authorities, totally forgetting the point at issue. Finally, Dmitriy Stepanov openly called for the overthrow of the present government. His speech was so shocking that the Constitutional Court adjourned its session and withdrew for a 10-minute consultation. After this, Valeriy Zorkin stated:

[Begin Zorkin recording] During the examination of the present case, a participant, a representative of one side allowed himself to make clearly politicized remarks in his speech. This contradicts the entire spirit and point of constitutional legal proceedings in the Russian Federation, namely, there is a danger of turning the court from a court of law into a politicized trial [protsess].

Second, the court reminds the participants and representatives of the sides that the Constitutional Court cannot examine and has no right to examine matters outside its

competence. The court examines matters of law and does not examine matters of political expediency.

So, we remind, request, and warn the sides that those facts, circumstances, and other aspects which are not compatible with the powers of the Constitutional Court and the nature of constitutional legal proceedings in the Russian Federation should not figure in speeches and material.

But both the saddest and most regrettable thing is that we have, unfortunately, come up against anticonstitutional calls here in the court. In circumstances where the country is indeed electrified, and this was stressed in the speech by People's Deputy Stepanov, to call at the same time for power to be seized—how can this be combined with your setting up of the Constitutional Court? What then are you looking for here at the Constitutional Court? [end recording]

[Krasnov] However, this question remained in the air. CPSU representatives obviously did not have sufficient arguments today. All there was were the emotions of people deprived of power and privilege.

Lawyers Comments on Court Proceedings

OW0707181392 Moscow INTERFAX in English 1623 GMT 7 Jul 92

[Prepared by Andrey Pershin, Andrey Petrovskiy, and Vladimir Shishlin; edited by Boris Grishchenko; from "Presidential Bulletin"; transmitted via KYODO]

[Text] Russia's Constitutional Court has decided not to call President Boris Yeltsin either as witness or as defendant: it has declined a demand by the People's Deputy Yuriy Slobodkin to that effect. The Court explains the participants of the trial have been set in the prescribed order.

IF [INTERFAX] Note: Yuriy Slobodkin is one of the members of parliament who started the legal proceedings challenging the constitutionality of the President's decrees banning the Communist Party. The Constitutional Court has resumed hearings of that case in Moscow. At the same time it will consider the counter claim of unconstitutional character of the party itself.

Boris Yeltsin's attorneys at the trial are the People's Deputy Sergey Shakhray and the President's State Secretary Gennadiy Burbulis, also the director general of the Intellectual Property Agency Mikhail Fedotov.

The CPSU is represented by the former deputy General Secretary of its Central Committee Vladimir Ivashko and one of the former Central Committee secretaries Aleksandr Melnikov, also former secretaries of Russia's Communist Party Gennadiy Zyuganov and Vladimir Kalashnikov.

IF Note: Representatives of the "revived CPSU" delegated by the recent 29th party congress on July 4 have not been admitted to the hearings.

Referring to the absence of the former General Secretary of the CPSU Mikhail Gorbachev the chairman of the Constitutional Court [CC] Valeriy Zorkin said he saw in it "no breach of law on the CC". Vladimir Ivashko, in his turn, refused to comment on it in his talk with Interfax saying only "that's his choice".

It was announced that in preparing the hearings thousands of documents, including secret ones, were extracted from the party archives, and conclusions studied by dozens of leading experts including those from Britain and the United States.

The Communist Party's lawyer said his side was not acquainted with a large part of those documents and consequently "not ready for the trial". Valeriy Zorkin assured the plaintiffs that they would be shown all the materials of the case.

Mikhail Fedotov remarked on that point, "They wrote those papers for 74 years, and we had just a month to peruse them". He added that all the documentary evidence presented by the President's attorneys "are open now for study in the archives and could be seen if desired". He pointed out the trial was by no means held on Boris Yeltsin's initiative. "We sought a civil accord and therefore shunned from reopening the sore which was treated by surgery in August 1991", he explained.

On behalf of the parliamentarians who questioned the legality of Boris Yeltsin's decrees disbanding the CPSU the MP [member of parliament] and leader of the parliamentary party "Russia's Communists" Valeriy Zorkaltsev declared that they were not fighting the President nor seeking his impeachment, but only trying to correct his mistakes. He maintains that "banning the largest political party" the President exceeded his competence and infringed on the constitutional principle of division of powers. In his opinion, the Communist Party which "gave birth to the Democratic Russia movement" was disbanded at the turning point in its development when it was reconsidering its goals and targets.

While objecting to the presidential decrees banning the Communist Party Valeriy Zorkaltsev stressed that no court had established any crimes committed by the Party in August 1991 or following the failure of the putsch. He warned that a ban on the Communist Party was an alarm signal for other political parties which might share its fate. He feared that after this attack on the Communists an offensive would be launched against the Soviets (that is elected councils) thus paving the way for totalitarianism in Russia.

The Constitutional Court has agreed to hear more than ten speakers representing the side challenging the constitutional character of the presidential decrees.

Communists Demand Yeltsin Attend Court Hearing

LD0707082192 Moscow ITAR-TASS in English 0803 GMT 7 Jul 92

[Text] Moscow July 7 TASS—Communists, who have initiated the discussion of the legality of presidential decrees banning the Communist Party in the Constitutional Court, demanded on Tuesday [7 July] that Boris Yeltsin attends the session as it was he who signed the decrees.

Yuriy Slobodkin, the major plaintiff, said it is all the same for him in which quality the president will be summoned to court, either as a witness or a defendant.

The president, who sent his representatives to court, is leaving late on Tuesday for Munich to attend the G-7 summit. He is expected to return to Moscow on Saturday after a visit to Finland.

Former General Secretary of the Soviet Communist Party Mikhail Gorbachev is absent in court although he was invited as a witness. The Soviet Communist Party is represented by his former deputy Vladimir Ivashko and the Russian Communist Party—by its former First Secretary Valentin Kuptsov.

Reform Movement Demands End to Court Picketing

MK0907125992 Moscow KURANTY in Russian 8 Jul 92 p 1

["S.S." report under the general heading: "Will It Be Necessary To Steal Again?"]

[Text] Yesterday the Russian Movement for Democratic Reforms disseminated through its chairman G. Popov and Executive Committee Chairman A. Kiselev a statement condemning the picketing of the Constitutional Court building by CPSU supporters, which is a direct infringement of the highest principle of this organ's activity. The Russian Movement for Democratic Reforms demands that both the Russian and the Moscow authorities ensure conditions under which the Constitutional Court can work without hindrance.

If the Russian authorities do not ensure the Constitutional Court's normal working conditions, the statement emphasizes, "we will be forced to summon our supporters to its defense."

8 July

Court Proceedings on Decrees on CPSU Resumes

LD0807091192 Moscow Mayak Radio Network in Russian 0700 GMT 8 Jul 92

[Text] The session of the Constitutional Court of the Russian Federation continues in Moscow today. As you will know, it is considering petitions on the accordance with the Russian constitution of the decrees of the president on ending the activity of the CPSU and the Russian Communist Party and on the constitutionality of the CPSU. Over to our correspondent Aleksandr Ruvinskiy:

[Ruvinskiy] Yes, indeed, the session of the court resumed an hour ago ar.1 began with consideration of a special question. The court chairman reported that the court had received a statement by a group of people elected as leaders of the CPSU at the 29th CPSU Congress held a few days ago. They are asking to be allowed to take part in the hearing as one of the sides representing the CPSU. However, Ivashko and Kuptsov, who are taking part in the current hearing, objected to this, since they regard the 29th CPSU Congress as unlawful and having no connection with the real CPSU, and if the newly elected leaders of the CPSU were to be admitted to the hearing, this would be in effect a recognition of that congress by the Constitutional Court.

Shakhray, the president's representative, did not object to the arguments of Ivashko and Kuptsov. The court refused to allow the representatives of the CPSU elected at the 29th Congress to take part in the hearing.

Well, then the chairman again warned the participants on the need to stick to the juridical framework and not to try to politicize this hearing, as had happened yesterday.

The floor was again given to the side opposed to the decree of the president on the CPSU. Deputy of the Russian Federation Bokov spoke. He described the president's decrees as documents of political arbitrariness and categorically rejected the idea that the party in any form had taken part in the coup of 19 August, let alone supported it. He compared the decrees of the Russian president with the processes that had taken place in Germany in 1933 and described it in general as a device of a highwayman. He insisted that in doing this the president had violated the presidential oath. He pointed out that the criminal proceedings against party organs that were instituted in many regions after the August coup had been stopped because of the absence of corpus delicti.

Well, then statements for the same side were heard from lawyers—doctor of legal sciences Khangeldiyev and also Professor Martimyanov, who addressed in detail the questions of the party's property.

The session is still continuing and during the day we will inform our listeners about it. The next live report will be at 1300.

Further on Session

LD0907031692 Moscow Programma Radio Odin Network in Russian 1500 GMT 8 Jul 92

[Text] Today the Constitutional Court of Russia continued examining the issue of whether the decree by the president of the Russian Federation regarding the CPSU

and the Russian Communist Party was constitutional. Correspondent Aleksandr Ruvinskiy reports:

[Ruvinskiy] At the morning session the court heard the people's deputies who addressed a request regarding the constitutional nature of the president of Russia's decree on the CPSU. Questions were asked. In the afternoon the floor was given to the other side. Sergey Shakhray, a spokesman for the president, made a speech. He spoke for a fairly long time. For 90 minutes he gave an account of the arguments and facts which establish that the CPSU was not a public organization, not a political party, but purely a state structure.

After a decision was adopted in the state to withdraw the troops from Afghanistan, the Politburo adopted a decision on allocating serious military aid to that state and deliveries of weapons to it. This document was adopted on 27 July 1990. Weapons worth 4 million rubles were sent to Afghanistan. During that same period military aid was also rendered to such states as Ethiopia, Mozambique, Libya, and a number of others.

In Shakhray's report it is stated that the CPSU is guilty of whipping up social and national strife. We know that on 14 November 1989 a decision was made at the Supreme Soviet on the criminal nature of acts of repression and on the forced resettlement of peoples, but these acts are known to have been adopted by the direct decision of the CPSU in the previous years.

The court also dealt with the events in Novocherkassk. Radio listeners already know a lot about them. The anniversary was recently marked. I will not go over it again right now.

In time the party's Central Committee sent draft statements of indictment with respect to Novocherkassk. That is, direct instructions were given according to a timetable to the judicial, repressive bodies.

There is one fact that one might regard as sensational. It was reported at the court session for the first time. Shakhray reported that there was a department of the KGB which specially planned the murder of political figures in the country and abroad. The court has had the relevant documents submitted to it. The documents have been declassified. As I understand it, other documents, secret ones, have also been submitted to the court which were not mentioned at the session here. This very fact evoked great interest among the judges. They asked questions of Shakhray in this connection. He said that one could familiarize oneself with the documents—they were submitted to the court on 7 July.

In conclusion, Sergey Shakhray noted that the activity of only the leading, organizational structures of the CPSU was of an anticonstitutional nature. The rank and file members of the CPSU cannot be held responsible for the activities of that organization since they could not control the leaders of the CPSU. In general, the members of the CPSU could not as a rule even leave the organization if they wanted to.

The question was asked of the judge and then of Shakhray as to where the money of the CPSU had gone which the CPSU received from its various organizations, by way of membership dues. Besides this it was convincingly shown here it had received state money, including foreign currency—many, many hundreds of millions. Shakhray's answer to that question was that will still have to be clarified.

Tomorrow, the Constitutional Court trial will be resume.

Peoples Deputies, Scientists Address Court

LD0807203692 Moscow ITAR-TASS in English 2001 GMT 8 Jul 92

[By ITAR-TASS]

[Text] Moscow July 8 TASS—The Russian Constitutional Court continues hearings on the legality of Russian presidents' decrees banning the CPSU and the Russian Communist Party (RCP).

On Wednesday [8 July], the court was addressed by opponents of the decrees. Later in the day, 11 speakers, including Russian people's deputies and scientists, answered the questions by judges and opponents and explained their positions on all the points of the claim rendering Yeltsin's decrees unconstitutional. Under the decrees, the Communist Party was banned and its property confiscated on the pretext of its involvement in the 1991 abortive coup attempt.

Boris Khangeldyev believes the whole party cannot be held responsible for last year's events, since most of its members were not aware of the activities of the coup organizers. Besides, the right of citizens to association is protected by law, Khangeldyev said.

A party's property can be confiscated only if ruled so by court, rather than by a decree of the executive power, Valeriy Martemyanov said. He recalled that the government had appropriated 12 billion roubles as the party membership dues.

Mikhail Fedotov, the president's representative, supporting Yeltsin's decrees as constitutional, said it was obvious from the evidence submitted to court that the CPSU had replaced the executive and the legislative power and had placed itself above the state and law.

He also said the CPSU had never been a party, but rather a malignant swelling which had penetrated into every cell of society. [passage omitted]

Sergey Shakhray, a people's deputy and another presidential representative, emphasised that the CPSU was not a party, but a kind of a state mechanism. According to Shakhray, the CPSU leading bodies constantly violated the Constitution and other acts of internal and international law, acted counter to the lawfully elected Russian authorities and were involved in the 1991 August coup.

Therefore, the Russian president, as the head of the executive power, had the right to issue decrees and terminate the activity of the CPSU and the RCP as parts of a state mechanism, as he had strong evidence urging him to stop their illegal activity dangerous for democracy, Shakhray said.

Commenting on Shakhray's statement, former Deputy CPSU Secretary General Vladimir Ivashko said in a TV interview that any of the voiced arguments might be refuted.

The hearings will continue on July 9.

Further on Shakhray Remarks

OW0807193092 Moscow INTERFAX in English 1810 GMT 8 Jul 92

[Transmitted via KYODO]

[Text] The representative of the Russian President to the Constitutional Court [CC], member of the Russian Parliament Sergey Shakhray said "The most powerful organization of the XX century", the Communist Party of the Soviet Union, was part of a government mechanism, "which perverted the nature of a political party". Speaking at a session of the CC Wednesday [8 July], Shakhray brought a secret document from the Communist Party archives to show the inequality of the actions of party leaders. The document showed that former first secretary of the Central Committee Nikita Khrushchev personally confirmed the plan presented by and later carried out by the KGB, to physically remove the head of the Greek Catholic Church of Ukraine Romzhi, who refused to join the orthodox church.

According to the document presented by Shakhray, even after the rescindment of the 6th article of the Constitution of the Soviet Union, the Central Committee continued to confirm lists of nomenclature in the government.

The president's representative accused the leadership of the Communist Party of assisting the coup leaders in August 1991, publishing a coded telegram to party organs to "help the emergency committee". Shakhray said that in one of the secret documents KGB Chairman Vladimir Kryuchkov in February 1991 supported forming "a temporary structure to introduce an emergency status".

Shakhray rejected the thesis of his opponents in the case that the confiscation of Communist Party property by the president was unconstitutional, saying that the party illegally possessed state property which Yeltsin merely returned to its rightful owner.

In an interview with "IF" [INTERFAX] the former deputy General Secretary of the Central Committee Vladimir Ivashko said that the argument by the presidential representative "will be easily disputed". However, he declined to comment on what theses the representatives of the communist party will use.

CPSU Spokesman Demands Return of Property

OW0807120392 Moscow INTERFAX in English 1047 GMT 8 Jul 92

[Transmitted via KYODO]

[Text] Professor Valeriy Martemyanov who represents the CPSU at the current session of the Constitutional Court has demanded that the issue of returning to the party some of its property confiscated under President Yeltsin's decrees be resolved by the Russian Court of Arbitration. Addressing the Constitutional Court on Wednesday [8 July] he said: the Communist Party will demand that the property acquired with its registered funds, above all publishing houses and printing equipment, be returned to it. According to the party spokesman, membership dues paid between 1981 and 1990 made up 12.4 billion rubles and represented the main source of the party's income.

The Communist Party, he pointed out, does not claim the holiday homes and resorts that used to belong to it.

Having noted that the CPSU and state funds represented a "symbiosis", Professor Martemyanov conceded that his party had used funds from the state treasury. He added however that the CPSU had also allocated funds for state needs. According to V. Martemyanov, in 1989 his party granted 500 million rubles, and in 1990 another 500 million rubles which, he told IF [INTERFAX]'s correspondent, were spent on replenishing the government's pension fund and on giving aid to the victims of the Chernobyl disaster. When a devastating earthquake hit Armenia, the CPSU allocated 50 million rubles to cope with its consequences, said V.Martemianov.

In the meantime on Wednesday the Constitutional Court turned down the request of those who had organized the recent 29th CPSU congress to let them represent the party at the current hearings instead of the former CPSU officials appointed by the Constitutional Court.

9 July

Court Adjourns for Closed-Door Consultations

OW0907134492 Moscow INTERFAX in English 1303 GMT 9 Jul 92

[Transmitted via KYODO]

[Text] Russia's Constitutional Court has adjourned its session today, Thursday [9 July], for consultations behind closed doors on the demand by the Communist Party's attorneys that its decision of May 26 to unite two claims in one trial be overturned. One of the lawyers—Aleksandr Kligman—has appealed to the court to repeal the counter claim of unconstitutional character of the Communist Party and to stop considering it.

He argued that Russia's law has no norm for trying any party's activities as to their constitutional or unconstitutional character. Under the law it was only possible to find if a party's programme was in keeping with the Constitution, and the Communist Party's aims were not in contradiction with it.

A. Kligman went on to say that no law of the Russian Federation stated the consequences of finding a party unconstitutional. In his opinion "such a conviction without specifying the consequences was a prelude to terror". That could be followed, he said, by banning professions for rank-and-file communists, by persecuting them, and by depriving former party members of deputies' mandates.

According to A. Kligman the CC [Constitutional Court] can now only try the issue of constitutionality of Boris Yeltsin's decrees banning the Communist Party and should decline the counter claim of the party's unconstitutional character.

However, the member of parliament and of its constitutional commission Oleg Roumyantsev who filed in the counter claim has refused to recall it. His attorney Andrey Makarov pointed out that his side "saw no new circumstances that would lead the CC to revise its former ruling".

Court Turns Down Protest on Constitutionality

LD0907154692 Moscow ITAR-TASS in English 1444 GMT 9 Jul 92

[By ITAR-TASS correspondent Lyudmila Yermakova]

[Text] Moscow July 9 TASS—The Russian Constitutional Court turned down on Thursday [9 July] the protest of a lawyer representing the banned Soviet Communist Party who said the court has no legal grounds to probe the constitutionality of the CPSU.

Chairman of the Court Valentin Zorkin expressed "his personal dissatisfaction" that the lawyer qualified the discussion of the CPSU constitutionality as "a trial over the party".

Lawyer Aleksandr Kligman said activities of political parties are not a subject of discussion in constitutional court. The procedure for discussing the constitutionality of political parties has not been determined by legislation, he stated, adding that the article of law defining the constitutional court, upon which the plaintiff based his appeal, is intended for discussion of the constitutionality of international agreements, not that of political parties.

The Constitutional Court is discussing two appeals at its current session: The legality of presidential decrees banning the CPSU and its Russian branch and the issue of whether the party was in itself constitutional. The latter appeal was handed in by Oleg Rumyantsev, secretary of the Russian Constitutional Commission, to counterbalance the first one.

Expert Dmitriy Shutko refuted Kligman's arguments saying the latest Congress of Russian People's Deputies amended the constitution and allowed the Constitutional Court to probe the constitutionality of political parties. "It is an attempt to delay the session and split the case in two parts", Shutko told TASS.

Shakhray Denounces 'Trick' by CPSU Lawyer

OW0907185192 Moscow INTERFAX in English 1809 GMT 9 Jul 92

[Transmitted via KYODO]

[Text] The representative of the Russian President in the Constitutional court Sergey Shakhray qualified as "a tactical trick" the statement made by a lawyer from the CPSU Aleksandr Kligman to the Constitutional Court on declining the petition disputing the constitutional essence of the communist party. The Constitutional Court did not satisfy this statement.

Shakhray explained that he took into consideration the tricks of the CPSU representatives who are trying to overtake the initiative. The representative of the President told "IF" [INTERFAX] that the authors of the petition from the CPSU "will without any doubt undertake" different steps and the participant of the process "will experience the same situations".

In his interview with "IF" Kligman in his turn stated that "from the very beginning the trial was considered to be a political but not a legal process and it is going on in this direction".

An expert from the CPSU, a daughter of the former Chairman of the Supreme Soviet of the USSR Anatoliy Lukyanov who is under trial after the August coup, Elena told "IF" that the process is not so greatly politically colored as she expected. Lukyanova underlined that she participates in the court as a professional, a docent of the Moscow State University, a specialist on the state law. According to Lukyanova, the law is on the side of those who put forward the petition from the CPSU.

Yeltsin's Lawyer Accuses CPSU of Violations

LD0907175792 Moscow ITAR-TASS in English 1719 GMT 9 Jul 92

[By ITAR-TASS correspondent Lyudmila Yermakova]

[Text] Moscow July 9 TASS—Russian President Boris Yeltsin's lawyer Andrey Makarov accused the Communist Party on Thursday [9 July] of violating the country's Constitution.

The Constitution, which had been developed by party functionaries, obliged party organisations to act in accordance with the fundamental law. But they often merged with administrative bodies and seized their functions.

The usurpation was legalised in the new party programme, which said that "the CPSU considers it necessary to take into account the specific nature of functions of party, state and public bodies and coordinate their activities."

Makarov denounced statements by party bureaucrats claiming that the party has transformed into an entirely new democratic organisation of a parliamentary type. "In 1917, 1937 and August 1991 it was one and the same organisation," which used the Soviets of People's Deputies as a front, Makarov said. The party controlled all spheres of life, including ideology, economy and foreign policy. There was no legal way to resist party monopoly, the lawyer said.

After a 1.5-hour long speech, the court decided to adjourn until July 10.

Proceedings Viewed

Lawyers Issue Appeal for Defense of CPSU

PM0807080492 Moscow PRAVDA in Russian 4 Jul 92 p 1

[Undated appeal by Doctors of Juridical Sciences and Professors V. Vishnyakov, B. Kurashvili, V. Martemyanov, S. Bogolyubov, and B. Khangeldyyev, and V. Ilyukhin, corresponding member of the International Slav Academy and state counselor of justice, to "the public at home and abroad": "Appeal for the Defense"]

[Text] Appealing to the public at home and abroad, we wish once again to call for vigilance and warn the world that the trial of the CPSU could mark the start of a large-scale campaign of persecution of honest Communists and could open the door to fascism in Russia.

It is our conviction that certain components of the Russian authorities, by bringing influence to bear on the courts, are trying to turn a legal investigation into a political show trial of the army of many millions of honest Communists, the suppression of opposition and dissidence in the country, and the establishment of a dictatorship. This is indicated by Russian President B. Yeltsin's statement on the eve of the trial that communist ideology in Russia has been stopped once and for all and that on 7 July of this year the Constitutional Court will finally close the file on the CPSU case.

Unfortunately, we must observe that the court does not always withstand powerful pressure and itself committed a number of errors and deviations from the law, in our opinion, in May of this year. These began with the decision to combine in a single case two mutually exclusive appeals by deputies' groups: the first on the unconstitutionality of the Russian president's decrees which first suspended and then stopped the CPSU's activity, and the second, diametrically opposed, on the unconstitutionality of the party itself.

We believe that the Russian Constitutional Court cannot examine questions of the CPSU's activities, since it was made up of 15 republic parties, and the court's jurisdiction is confined to the Russian Federation. This conclusion is drawn directly from the preamble to and Articles 1-2 of the Law on the Constitutional Court. Anything else must be regarded as interference on its part in the affairs of other sovereign states which were republics of the former USSR.

The petition by 37 Russian people's deputies (Communists and nonparty people) for an investigation into the constitutionality of the Russian Federation president's decrees was submitted to the court on 27 December 1991. The amendments to the Russian Federation Constitution (Article 165/1) granting the court the right to resolve the question of the party's constitutionality were adopted six months later and came into force in May 1992. Therefore the court unlawfully gave retroactive force to a law exacerbating the defendant's position, which is contrary to the legal principles and practice existing in the country and worldwide.

The Constitutional Court, according to Article 1 of the law governing it, does not examine political questions, and in resolving cases must refrain from establishing and studying factual circumstances in all cases where this falls within the competence of the courts or other organs. The investigation into the CPSU's role in the events of August 1991 and the case relating to its money proved groundless. The party's guilt was not proven, nor could it be, since it did not commit any unlawful acts. The side that raised the question of the unconstitutionality of the Communist Party, seeking reprisals against its own political and ideological opponents and trying to conceal the obvious and unceremonial plundering of CPSU property, is preparing an open political farce. To this end, a subjective interpretation of the party's role in the country's history, beginning with its birth, is presented hastily and on the basis of isolated events, facts, and documents. With no firm legal basis, attempts are made to turn the Constitutional Court into a political debating society. It is regrettable that former Communists are participating actively in this game, betraying the party in exchange for the privileges and posts they have received from the new authorities.

There is no doubt that certain echelons of the present authorities, participating in an unseemly propaganda campaign over the CPSU, are trying thereby to divert the people's attention from the destructive processes currently taking place in the country. From the ruin, through the fault of the authorities, of a once mighty Fatherland and national economy, from the destruction of science, culture, and the army, from spiritual genocide and genocide through starvation, unleashed against their own people.

[Signed] V. Vishnyakov, B. Kurashvili, V. Martemyanov, S. Bogolyubov, and B. Khangeldyyev, doctors of

juridical sciences and professors; V. Ilyukhin, corresponding member of the International Slav Academy and state counselor of justice.

Medvedev Interviewed on Court Proceedings

OW1007084692 Moscow Central Television First Program and Orbita Networks in Russian 1845 GMT 8 Jul 92

[Studio interview with Roy Medvedev, cochairman of the Socialist Party of Working People, by Sergey Goryachev; from the "Utro" program—live]

[Text] [Goryachev] Good morning. We are continuing our program, and the Constitutional Court of Russia will continue its work today. It is examining the constitutionality of President Yeltsin's decrees concerning the Communist Party, as well as the constitutionality of the Communist Party itself. At yesterday's court session, the question arose as to who should represent the Communist Party at the proceedings. The court rejected the petition of the representatives of the so-called 29th CPSU Congress and ruled that the Communists should be represented in the Constitutional Court of Russia by Ivashko and Kuptsov. Yesterday, the court also heard, first, the opponents of President Yeltsin's decrees and then the President's representative, Sergey Shakhray, addressed the court. [video shows court proceedings and then cuts back to show Roy Medvedev in the studio with Goryachev]

Many of you follow the newscasts and know what we are talking about and how the discussion is proceeding. However, today we have the opportunity, together with our guest who is here in the studio with me, Roy Aleksandrovich Medvedev, whom you all know. [sentence as heard] Good morning and welcome. He is one of the cochairmen of the Socialist Party of Working People. Roy Aleksandrovich, you are to appear as one of the witnesses at this court proceeding on behalf of a group of Communists.

[Medvedev] On behalf of a group of Communist deputies.

[Goryachev] So we understand right away that in this case you are a person who will probably be somewhat biased. We must apparently realize this at once, but here I do not want to hold another court of some sort, so to speak, and I would like to try to get into a discussion. I want to ask you about how you personally feel concerning this court proceeding. What is going on there? What kind of atmosphere prevails there? You have already spent two days there.

[Medvedev] Well, frankly speaking, so far I am pleased with the atmosphere prevailing in the court, because the court has not established any kind of time limits. For example, it has asked the sides themselves to determine how many people will appear in defense of the Communist Party or against it. Also, it has agreed with the two sides' proposals. The side defending the Communist Party has proposed many speakers on a variety of issues and nobody has set any time limits on them as, for example, we face here on television. They were told to speak as long as necessary, but not to repeat one another. They were interrupted only in those cases when they repeated what had already been said by somebody else.

[Goryachev] Did you feel any kind of hostility, tension, or personal animosity between the people who represent the Communists, say, and those who represent those people who are appearing against the Communist Party in this case?

[Medvedev] No, I did not feel any kind of hostility, because the general atmosphere in the court requires feelings of goodwill and respect between the sides. This is a special court proceeding. It is not a criminal process. It is a special court proceeding and the statutes of this court—the Law on the Constitutional Court—envisage only relations of goodwill. I did not feel any kind of bias on the part of the court or desire of the judges to investigate the essence of...

[Goryachev, interrupting] There is the impression, however, that the court is already leaning in a certain direction. Is this not true?

[Medvedev] So far this is not true. So far a desire to gain an understanding can be seen in the questions that the court is asking both sides. No bias can be perceived at this point.

[Goryachev] How long do you think these proceedings will last?

[Medvedev] Considering there are no time limits on the speakers, and considering that there are no restrictions on the number of questions and the time set aside for responses—for instance, a lawyer may ask 50 questions of the other side if he wishes—it is not clear how long the proceedings will last. The proceedings may go on for seven days or for 10 days. The proceedings may be even longer or they may manage to end them in five or six days. This has not been specified in advance. The proceedings will continue for as long as necessary for a precise, clear, and correct solution of this issue. This is the arrangement made from the very beginning.

[Goryachev] In 1971, as far as I can recall, you wrote a book, which may or may not have been seen by our readers.

[Medvedev] In 1971 I wrote a book about the crimes of Stalinism.

[Goryachev] It was written during Brezhnev's time.

[Medvedev] It was written during Brezhnev's time in the sixties, and it recounts the crimes, including the crimes of the party leadership, committed during Stalin's time. I wrote a biography of Khrushchev in which the crimes of Khrushchev's time are also described.

Recently I completed and published a book about Brezhnev in which the persecution of dissidents is described. Now, if we talk about the factual aspect of these books, then there is a lot more in them than what Shakhray accused the party of today. But this does not mean the party itself can be banned or declared unconstitutional by a presidential decree.

[Goryachev] I am simply trying to understand how you feel inside, you being a historian who probably knows more than most of us, and who has seen the documents. In the years you suffered under Brezhnev, you suffered from a regime that was...

[Medvedev interrupts] Of course.

[Goryachev] You were persecuted.

[Medvedev] Yes, I was persecuted and I suffered. But as a historian I must always be calm. A historian must also make his own judgment. There is a concept about the judgment of history. Now the trial of history will bring down its judgment on all parties and political figures. Of course in the future, when you and I may no longer be here, history will also have its say on this Constitutional Court proceeding. The judgment of history hangs over all trials and all human destinies....

[Goryachev] Have you ever felt that you have inner loyalties? Presently you sympathize with the Communist Party, having agreed to appear as a witness for their side. Yet at the same time you have really suffered—as you have said yourself already—from a regime that is closely identified with the Communist Party.

[Medvedev] I do not want to say I sympathize with the Communist Party. I joined the Communist Party only after the 20th Congress. Previously I was quite unsympathetic to the party, but I saw that it was changing. Then, when it stopped changing or started changing in a negative way, I was expelled from the party, and was even happy over this. So I have no particular sympathy for the Communist Party.

Presently, in establishing the Socialist Party of the Working People, we want to create a party which will support the interests of the working people, but which will be devoid of the organizational and other flaws possessed by the Communist Party. But I am objectively trying to understand the emergence of these shortcomings. The crimes, mistakes, and structures which emerged from the revolution created and led by the party—and the state that emerged in the course of this revolution—were all historically conditioned. This is our history, and we cannot reject it. We live in this state, we live in this house. It may have been badly built, it may have been built with great shortcomings, but we cannot simply destroy it. We will have nowhere to live.

[Goryachev] In fact this is probably a tragedy for many people, and this tragedy is growing increasingly deeper in connection with the fact that they are learning new facts about and are gaining a better understanding of where they live.

[Medvedev] Not only that. It is a tragedy because they are learning an enormous number of facts, terrible facts. On the other hand, it is a tragedy from the other side as well since the party was the support structure of this building; it was its foundation. When this foundation and these support structures were eliminated, the building simply collapsed.

People lost their customary values, ideals, and feelings about the state in which they lived, but did not get anything in exchange. They received no other values, no other ideals; they could not believe in something else. They found themselves lost and in an awful material situation. They can see the country is being destroyed, their ideals are being destroyed, but nothing is being created in return. This is particularly difficult. The people who decided the fate of the Communist Party should have given this some thought. It was still holding this building together, not very well, but it was holding it together.

[Goryachev] Roy Aleksandrovich, your party—the Socialist Party of the Working People—does not have any property to speak of. Your's is a party with a communist orientation, one of those parties that emerged after the activities of the CPSU were stopped. There are several parties with a communist orientation, and your's is one of them. You have no property, so you could claim some part of the CPSU's property if the presidential decrees are found to be unconstitutional.

[Medvedev] We do not need much property. We are a party with a socialist orientation, and the name stresses this because we want to build socialism, a democratic and humane socialism, a socialism that will truly be in the interests of all people who live in our country. We do not need property. The question of property is insignificant for us. We have only eight staff positions, if I am not mistaken—that is, eight people who are on the payroll. All other work is voluntary. This is very important because in this way the people who will join, and who have joined our party, will do so only out of conviction and not for any other reason, particularly since we are an opposition party.

[Goryachev] But your party is active. It is operating legally and its activities have not stopped, despite the fact that the ideology you proclaim and the values you adhere to are to a great extent those of the Communist Party. So your party is presently active.

[Medvedev] Yes, it is operating legally. This is an element of democracy which exists in our country, one which we value and which we want to defend. Our party is active. The fact that the Constitutional Court is now in session, this too is an element of democracy. This is an unusually important institution of power.

[Goryachev] In fact, in a situation when the Communist Party was still in power, even the thought of creating a Constitutional Court would have been futile.

[Medvedev] Of course.

[Goryachev] A party Control Committee was created. Anything could be done. A People's Control Committee, which is the same thing...

[Medvedev interrupts] No. A Constitutional Court could have been established, but the party was not a state structure, as Shakhray attempted to prove. It was a suprastate structure. It stood even higher than the state. If this court had been created, it would have dictated what decisions it should make.

[Goryachev] Roy Aleksandrovich, we spoke earlier about time, which is limited. I thank you for coming. I feel we should respect one another's convictions, and try to be patient and listen to one another. Thank you very much.

[Medvedev] Yes, that is my opinion too. Thank you.

[Goryachev] Historian Roy Medvedev, who is appearing in the Constitutional Court as a witness for a group of communists, and is one of the cochairmen of the Socialist Party of the Working People, on our Utro program.